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## BOOK REVIEWS

*American Democracy versus Prussian Marxism. A Study in the Nature and Results of Purposive or Beneficial Government.* By Clarence F. Birdseye. New York, Fleming H. Revell Co. 1920. pp. 371.

There is reason for welcoming the critical study of socialism at the present time. What we need especially is a calm inquiry into the forms which the radical movement is most likely to take in this country. The first, however, to rush to the typewriter for our enlightenment is pretty certain to be the frantic patriot who has just discovered that there is a radical movement in our midst. In all probability only the high cost of print paper can stay the flood of books and pamphlets that would summon us to awake and to smite the foreign devil of Social Revolution.

Mr. Birdseye has contributed 351 pages to save America from "Prussian Marxism." His method is to contrast American Democracy, as its excellencies appear revealed in the historical literature from which he has drawn copious notes, with the subversiveness of Marxism as he imagines it to be. His historical chapters are not without interest. Unfortunately they treat of our political institutions only, and the Marxian could argue that the really relevant matter is the development and character of our *economic* system.

When he comes to Marxism our author's method is that of calling names. Marxism is Prussian. The proof is that Karl Marx was born in Prussia and educated in a Prussian university. But why not note that it was before the era of Bismarck and hundred-per-cent Prussian militarism? And that it was in Rhenish Prussia that he was born, a region upon whose social and intellectual life the Prussian Junker had had little influence? Marx's conception of the state, our author continues, was Prussian. But why not tell the reader that Marx was expelled from Prussia because of his agitation against the Prussian political system? Why not look into the sources of Marx's ideas? Such an inquiry would reveal as the important factors in the development of Marx the socialist, (1) French socialism, (2) English political economy and blue books from which during his long exile in London he drew the material for his analysis of the capitalist system, and (3) the aftermath of Hegelian philosophy. Hegelianism is, indeed, something that has been called Prussian. But what Marx embraced was not the Hegelianism of the Right, or of Hegel himself, which at one time almost became the official philosophy of Prussia, but that of the Left, the antithesis of everything held sacred at the Prussian court and by the Prussian church. So much for Marx's Prussianism.

Marxism is denounced by the author as aiming at "establishing through a social revolution, the dictatorship of the lowest class over all other classes." Would it not be fair to point out that the Marxian thinks of the "dictatorship of the proletariat" as something transitional only, and as means to an end, the end being the abolition of classes and class control? And is it fair to deny all idealism to the Marxian socialist? Is it true that there "is a distinct tendency for all socialists to sink to the level of the lowest members"? Does the socialistic proletariat consist of the "lower two-tenths of society, who have been the dead load which the others have been attempting for centuries to lift to a higher level?" And does this class-conscious proletariat include "also the criminals and the very scum of the earth"? Has Mr. Birdseye never attended a socialist meeting and looked about him at the audience?

In the face of many socialist protestations to the contrary, Mr. Birdseye charges all Marxians with advocating "violence and terrorism." Then he calls

upon Congress and the state legislative bodies to pass sweeping laws "forbidding Marxism and its offspring." That would, of course, leave Marxism no means but those of violence. Throughout most of the book, the author gives the impression that our salvation lies in knowledge of the excellence of our political system. But when he calls for a leader with "an Ole Hansen kind of fearlessness" (p. 342) and quotes violent utterances of General Leonard Wood, we are not surprised to be told that Marxism is to be fought by suppression rather than by argument.

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*Cases on the Law of Evidence, selected from decisions of English and American Courts.* By Edward W. Hinton. St. Paul, West Publishing Co. 1919. pp. xxiii, 1098.

The editor has arranged his material in seven chapters, the first of which deals with the respective functions of the court and the jury; the second with witnesses; the third, fourth, fifth and sixth with various exclusionary rules; and the seventh with the parol evidence rule. As he points out, the cases in the first and seventh chapters have little, if anything, to do with the law of evidence proper, but for the sake of convenience are usually considered in connection with it. The first two groups of decisions in the first chapter develop the distinction between the burden of persuading the jury of the truth of a proposition and the burden of producing sufficient evidence to justify the court in submitting the question to the jury, and show the apportionment of those burdens between the parties, particularly as affected by various pertinent presumptions. The third group treat of judicial notice, and the fourth of the duty of the court to determine questions of fact preliminary to ruling upon the admissibility of offered evidence. The common law with reference to the competency of witnesses and characteristic modern statutory modifications thereof are made clear in the first section of the second chapter. The next section consists of cases demonstrating the rules of preference for attesting witnesses. Privilege is the subject of the third section. The chapter concludes with an excellent selection of decisions showing the rules governing the examination of witnesses and the methods of offering and objecting to evidence. The third chapter is devoted to the hearsay rule and its recognized exceptions; the fourth, to opinion evidence. Chapter five is entitled "Circumstantial Evidence," wherein are printed cases dealing with character evidence, evidence of similar acts, habit, similar occurrences, and like matters, and cases usually classified under the heading of real evidence. The sixth chapter shows the scope and limitations of the best evidence rule. The seventh compiles cases dealing with evidence offered to vary, contradict or avoid a written instrument and extrinsic evidence offered to aid in the construction or application of a written instrument.

The attention of the reviewer is challenged by several outstanding features of the book. First, its arrangement is, in the main, well adapted to enable the student to visualize the problems which confront the practitioner. At the outset he must comprehend the respective functions of the court and jury, and must know the nature and extent of the burdens with which he and opposing counsel will enter the trial. Inasmuch as most evidence is offered through witnesses, he must thoroughly understand the rules governing their competency and their privileges; the methods of producing testimony by direct, cross, and redirect examination; and impeachment and corroboration of witnesses. With these in mind, he will be able to give more intelligent consideration to those rules which permit or require the exclusion of logically relevant evidence for reasons of policy or in deference to precedent. Second, the classification of the cases is in